

ASSEMBLY BILL

No. 2541

Introduced by Assembly Member Matthews

February 23, 2006

An act to amend Sections 927.1, 927.2, 927.3, 927.6, 927.7, 927.10, and 927.11 of the Government Code, relating to claims against the state.

LEGISLATIVE COUNSEL'S DIGEST

AB 2541, as introduced, Matthews. Claims against the state.

Existing law requires a state agency that acquires property or services pursuant to a contract with a business to make payment to the person or business on the date required by the contract, and within 45 days of the state agency's receipt of an undisputed invoice, or be subject to a late payment penalty.

This bill additionally would require a state agency that awards a grant, as defined, to make payment to the person or business that is the recipient of the grant on the date required by the grant, and within 45 days of the state agency's receipt of an undisputed invoice, or be subject to a late payment penalty. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 927.1 of the Government Code is
2 amended to read:
3 927.1. (a) (1) A state agency that acquires property or
4 services pursuant to a contract with a business, including any

1 approved change order or contract amendment, shall make
2 payment to the person or business on the date required by the
3 contract and as required by Section 927.4 or be subject to a late
4 payment penalty.

5 *(2) A state agency that awards a grant, as defined in*
6 *subdivision (b) of Section 927.2, shall make payment to the*
7 *person or business that is the recipient of the grant on the date*
8 *required by the grant and as required by Section 927.4 or be*
9 *subject to a late payment penalty.*

10 (b) Except in the event of an emergency as provided in Section
11 927.11, effective January 1, 1999, the late payment penalties
12 specified in this chapter may not be waived, altered, or limited by
13 ~~a~~ *either of the following:*

14 *(1) A state agency acquiring property or services pursuant to a*
15 *contract or ~~by any~~ that awards a grant.*

16 *(2) Any person or business contracting with a state agency to*
17 *provide property or services or that is the recipient of a grant.*

18 SEC. 2. Section 927.2 of the Government Code is amended to
19 read:

20 927.2. The following definitions apply to this chapter:

21 (a) "Claim schedule" means a schedule of invoices prepared
22 and submitted by a state agency to the Controller for payment to
23 the named claimant.

24 (b) "*Grant*" means a signed final agreement between the
25 Office of Emergency Services and a local government agency or
26 organization authorized to accept grant funding for victim
27 service programs administered by the Criminal Justice Programs
28 Division of the Office of Emergency Services.

29 (c) "Invoice" means a bill or claim that requests payment on a
30 contract under which a state agency acquires property or services
31 or pursuant to a grant.

32 ~~(e)~~

33 (d) "Medi-Cal program" means the program established
34 pursuant to Chapter 7 (commencing with Section 14000) of Part
35 3 of Division 9 of the Welfare and Institutions Code.

36 ~~(d)~~

37 (e) "Nonprofit public benefit corporation" means a
38 corporation, as defined by subdivision (b) of Section 5046 of the
39 Corporations Code, that has registered with the Department of
40 General Services as a small business.

1 ~~(e)~~

2 (f) “Reasonable cause” means a determination by a state
3 agency that any of the following conditions are present:

4 (1) There is a discrepancy between the invoice or claimed
5 amount and the provisions of the contract *or grant*.

6 (2) There is a discrepancy between the invoice or claimed
7 amount and either the ~~contractor’s~~ *claimant’s* actual delivery of
8 property or services to the state or the state’s acceptance of those
9 deliveries.

10 (3) Additional evidence supporting the validity of the invoice
11 or claimed amount is required to be provided to the state agency
12 by the ~~contractor~~ *claimant*.

13 (4) The invoice has been improperly executed or needs to be
14 corrected by the ~~contractor~~ *claimant*.

15 (5) The state agency making the determination or the
16 ~~contractor~~ *claimant* involved has been subject to a computing or
17 accounting failure related to the Year 2000 Problem.

18 ~~(f)~~

19 (g) “Required payment approval date” means the date on
20 which payment is due as specified in a contract *or grant* or, if a
21 specific date is not established by the contract *or grant*, 30
22 calendar days following the date upon which an undisputed
23 invoice is received by a state agency.

24 ~~(g)~~

25 (h) “Received by a state agency” means the date an invoice is
26 delivered to the state location or party specified in the contract *or*
27 *grant* or, if a state location or party is not specified in the contract
28 *or grant*, wherever otherwise specified by the state agency.

29 ~~(h)~~

30 (i) “Revolving fund” means a fund established pursuant to
31 Article 5 (commencing with Section 16400) of Division 4 of
32 Title 2.

33 ~~(i)~~

34 (j) “Small business” means a business certified as a “small
35 business” in accordance with subdivision ~~(e)~~ (d) of Section
36 14837.

37 ~~(j)~~

38 (k) “Small business” and “nonprofit organization” mean, in
39 reference to providers under the Medi-Cal program, a business or
40 organization that meets all of the following criteria:

1 (1) The principal office is located in California.

2 (2) The officers, if any, are domiciled in California.

3 (3) If a small business, it is independently owned and
4 operated.

5 (4) The business or organization is not dominant in its field of
6 operation.

7 (5) Together with any affiliates, the business or organization
8 has gross receipts from business operations that do not exceed
9 three million dollars (\$3,000,000) per year, except that the
10 Director of Health Services may increase this amount if the
11 director deems that this action would be in furtherance of the
12 intent of this chapter.

13 ~~(k)~~

14 (l) “Year 2000 Problem” has the same meaning as that set
15 forth in subdivision (a) of Section 3269 of the Civil Code.

16 SEC. 3. Section 927.3 of the Government Code is amended to
17 read:

18 927.3. Except where payment is made directly by a state
19 agency pursuant to Section 927.6, any undisputed invoice
20 received by a state agency shall be submitted to the Controller for
21 payment by the required payment approval date. A state agency
22 may dispute an invoice submitted by a ~~contractor~~ *claimant* for
23 reasonable cause if the state agency notifies the ~~contractor~~
24 *claimant* within 15 working days from receipt of the invoice, or
25 delivery of the property or services, whichever is later. No state
26 employee shall dispute an invoice, on the basis of minor or
27 technical defects, in order to circumvent or avoid the general
28 intent or any of the specific provisions of this chapter.

29 SEC. 4. Section 927.6 of the Government Code is amended to
30 read:

31 927.6. (a) State agencies shall pay applicable penalties,
32 without requiring that the ~~contractor~~ *claimant* submit an
33 additional invoice for these amounts, whenever the state agency
34 fails to submit a correct claim schedule to the Controller by the
35 required payment approval date. The penalty shall cease to
36 accrue on the date the state agency submits the claim schedule to
37 the Controller for payment, and shall be paid for out of the state
38 agency’s funds. If the ~~contractor~~ *claimant* is a certified small
39 business, a nonprofit organization, a nonprofit public benefit
40 corporation, or a small business or nonprofit organization that

1 provides services or equipment under the Medi-Cal program, the
2 state agency shall pay to the ~~contractor~~ *claimant* a penalty of 0.25
3 percent of the amount due, per calendar day, from the required
4 payment date. However, a nonprofit organization shall only be
5 eligible to receive a penalty payment if it has been awarded a
6 contract *or grant* in an amount less than five hundred thousand
7 dollars (\$500,000).

8 (b) For all other businesses, the state agency shall pay a
9 penalty at a rate of 1 percent above the rate accrued on June 30 of
10 the prior year by the Pooled Money Investment Account, not to
11 exceed a rate of 15 percent, except that, if the amount of the
12 penalty is seventy-five dollars (\$75) or less, the penalty shall be
13 waived and not paid by the state agency. On an exception basis,
14 state agencies may avoid payment of penalties, for failure to
15 submit a correct claim schedule to the Controller by the required
16 payment approval date, by paying the ~~contractor~~ *claimant*
17 directly, from the state agency's revolving fund within 45
18 calendar days following the date upon which an undisputed
19 invoice is received by the state agency.

20 SEC. 5. Section 927.7 of the Government Code is amended to
21 read:

22 927.7. The Controller shall pay ~~contractors~~ *claimants* within
23 15 calendar days of receipt of a correct claim schedule from the
24 state agency. If the Controller fails to make payment within 15
25 calendar days of receipt of the claim schedule from a state
26 agency, the Controller shall pay applicable penalties to the
27 ~~contractor~~ *claimant* without requiring that the ~~contractor~~ *claimant*
28 submit an invoice for these amounts. Penalties shall cease to
29 accrue on the date full payment is made, and shall be paid for out
30 of the Controller's funds. If the ~~contractor~~ *claimant* is a certified
31 small business, a nonprofit organization, a nonprofit public
32 benefit corporation, or a small business or nonprofit organization
33 that provides services or equipment under the Medi-Cal program,
34 the Controller shall pay to the ~~contractor~~ *claimant* a penalty of
35 0.25 percent of the amount due, per calendar day, from the 16th
36 calendar day following receipt of the claim schedule from the
37 state agency. However, a nonprofit organization shall only be
38 eligible to receive a penalty payment if it has been awarded a
39 contract *or grant* in an amount less than five hundred thousand
40 dollars (\$500,000). For all other businesses, the Controller shall

1 pay penalties at a rate of 1 percent above the rate accrued on June
2 30 of the prior year by the Pooled Money Investment Account,
3 not to exceed a rate of 15 percent, except that, if the amount of
4 the penalty is seventy-five dollars (\$75) or less, the penalty shall
5 be waived and not paid by the Controller.

6 SEC. 6. Section 927.10 of the Government Code is amended
7 to read:

8 927.10. State agencies shall encourage ~~contractors~~ *claimants*
9 to promptly pay their subcontractors and suppliers, especially
10 those that are small businesses. In furtherance of this policy, state
11 agencies shall utilize expedited payment processes to enable
12 faster payment by prime contractors to their subcontractors and
13 suppliers, and shall promptly respond to any subcontractor or
14 supplier inquiries regarding the status of payments made to prime
15 contractors.

16 SEC. 7. Section 927.11 of the Government Code is amended
17 to read:

18 927.11. (a) Except in the case of a contract with a certified
19 small business, a nonprofit organization, or a nonprofit public
20 benefit corporation, if an invoice from a business under a
21 contract with the Department of Forestry and Fire Protection
22 would become subject to late payment penalties during the
23 annually declared fire season, as declared by the Director of
24 Forestry and Fire Protection, then the required payment approval
25 date shall be extended by 30 calendar days.

26 (b) No nonprofit public benefit corporation shall be eligible
27 for a late payment penalty if a state agency fails to make timely
28 payment because no Budget Act has been enacted.

29 (c) If the Director of Finance determines that a state agency or
30 the Controller is unable to promptly pay an invoice as provided
31 for by this chapter due to a major calamity, disaster, or criminal
32 act, then otherwise applicable late payment penalty provisions
33 contained in Section 927.7 shall be suspended except as they
34 apply to a ~~contractor which~~ *claimant that* is either a certified
35 small business, a nonprofit organization, a nonprofit public
36 benefit corporation, or a small business or nonprofit organization
37 that provides services or equipment under the Medi-Cal program.
38 The suspension shall remain in effect until the Director of
39 Finance determines that the suspended late payment penalty
40 provisions of this section should be reinstated.

1 (d) Except as provided in subdivision (b), in the event a state
2 agency fails to make timely payment because no Budget Act has
3 been enacted, penalties shall continue to accrue until the time that
4 the invoice is paid.

O